

**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH JAIPUR**

O R D E R

S.B. Civil Second Appeal No.9 Of 2006

Kishan Chand Vs. Om Prakash

Date Of Order ::: 08.12.2006.

Hon'ble Mr. Narendra Kumar Jain J.

Mr. J.P. Goyal, Counsel for defendant-appellant
Mr. Bipin Gupta, Counsel for plaintiff-respondent.

By the Court :

Heard learned counsel for both the parties.

The plaintiff-respondent filed a suit for eviction in respect of the rented shop, which was dismissed by the learned Lower Court. However, on an appeal filed by the plaintiff, the first appellate Court decreed the suit of the plaintiff for eviction on the ground of personal bona-fide necessity, material alteration in the rented premises and the second default in making the payment of the monthly rent.

I have heard learned counsel for both the parties and after considering their submissions in the

light of the finding of the first appellate Court, I find that the personal bona-fide necessity as well as material alteration in the facts and circumstances of the present case are questions of facts and there is a finding of fact by the first appellate Court in this regard, which cannot be interfered with by this Court in second appeal under Section 100 of the C.P.C.

Further the learned counsel for the defendant-appellant does not dispute that the plaintiff has already retired from the service in the year 1999 from the post of Compounder and he wants to run clinic in the rented shop. The contention of the learned counsel for the defendant-appellant is that after retirement of the plaintiff, he is already running his clinic in another premises, whereas the learned counsel for the plaintiff-respondent contended that at present the plaintiff is running his clinic only in a limited portion of his residential area, which is not sufficient and he is in urgent need of the rented shop.

No substantial question of law is involved in this second appeal and the same is accordingly dismissed at the admission stage itself with no order as to costs.

(Narendra Kumar Jain) J.